



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

MEMORANDUM

TO: Barry E. Hill, Director, Office of Environmental Justice ("OEJ")
Office of Enforcement and Compliance Assurance ("OECA")

FROM: Theodore J. Kim, Legal Counsel, OEJ/OECA /s/ *Ted Kim*

DATE: January 23, 2007

RE: "Environmental Justice in the News" for the Week Ending January 19, 2007

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This memorandum summarizes select environmental justice news actions for the period beginning January 5, 2007 through the week ending January 19, 2007. The summary is limited to Lexis/Nexis searches conducted using the query: "(environment! w/2 (justice or racism or equity or disproportionate or disparate)) or (environment! w/25 minorit! or low***income) or (executive order 12898) or (civil right! w/25 environmental) or ("fair housing act" w/25 (environment! or zon!))." Please note that articles on international or foreign-based environmental justice issues were not included.

1. **News Items.**

The following news was particularly noteworthy:

- **"OEHHA Climate Change Studies Seen Backing Air Board GHG, PM Rules," Inside Cal/EPA (Jan. 19, 2007).** According to the article, California's Office of Environmental Health Hazard Assessment ("OEHHA") issued studies on climate change and particulate matter ("PM") risks to human health, which will likely bolster "aggressive air board regulation of diesel engines and other sources of both PM and greenhouse gas ("GHG") emissions." For instance, OEHHA found a link between higher temperatures and mortality rate, which lead to a "'strong public health rationale' behind GHG regulation." OEHHA staffers plan to conduct further studies in the future, including "whether 'sensitive populations' --such as those who live in environmental justice communities -- would be disproportionately affected by climate change."
- **"Gansler to Stand Tough on Healthy Air Law; Attorney General Pledges Enforcement," Washington Post (Jan. 18, 2007) at T3.**

According to the article, Douglas F. Gansler, Maryland's new attorney general, has made it a priority to enforce a "state clean-air law that sharply limits pollution from coal-burning power plants linked to hundreds of deaths and thousands of asthma attacks each year." The Maryland Health Air Act passed the General Assembly last year and established a seven-year timetable for power plants to drastically cut emissions of sulfur dioxide, mercury, and nitrogen oxide. According to Mr. Gansler, air pollution has "taken a disproportionate toll on the poor" such that "selection and placement of coal-burning power plants in Maryland may very well be viewed as an environmental civil rights issue. . . . We have thousands of African-American children who are affected by respiratory illness, largely due to the coal-burning power plants. . . . We need the collective political will to enforce the Healthy Air Act."

- **"Sewage Project is Racist, Group Says; Partnership for Onondaga Creek Urges Remediation Payment, Investigation," Post-Standard (Jan. 16, 2007) at B2.** According to the article, members of the Partnership for Onondaga Creek ("Partnership") met on January 15, 2007 and alleged that Onondaga County "is discriminating against certain city residents by building large, obtrusive sewage treatment plants in poor, minority neighborhoods while still allowing sewage from wealthier white communities to pollute local waterways." As a result of these allegations, the Partnership sought, among other things, a public apology and remediation payment for those affected. The County responded to these allegations and asserted that the Partnership's claims lack merit and that no environmental injustice occurred. The Partnership plans to present their allegations this March at a national environmental justice conference scheduled at Howard University's Law School.
- **"Residents Oppose Ethanol Plant Proposal; Pollutants Would Fall Primarily on Minority, Low-Income Areas," Albuquerque Journal (N.M. Jan. 14, 2007) at B1.** According to the article, residents in Clovis, New Mexico oppose a ConAgra Trade Group's ("ConAgra") plan to build an ethanol plant in their community due to the fact that "the plant's stacks would fall disproportionately on the surrounding neighborhood, made up largely of black, Hispanic, and low-income residents." The residents voiced their opposition, which also included the fact that the site would depress their real estate values, at public hearing on January 11, 2007. The New Mexico Environment Department held the public hearing to discuss ConAgra's request for an air quality permit to operate the ethanol plant. Although the residents asserted the project raised issues of environmental justice, the Chief of the State Air Quality Bureau said "despite a November 2005 executive order from the governor focusing on environmental justice concerns around minority or low-income communities, the Environment Department has no statutory authority to withhold an operating permit over such a concern."

- **“Rep. Solis Introduces Legislation to Honor Cesar Chavez’s Heritage by Protecting Public Lands,” US Fed News (Jan. 10, 2007).** The article set forth a press release from Congresswoman Hilda L. Solis (D-CA) that announced that she introduced H.R. 348, the Cesar Estrada Chavez Study Act, to honor Mr. Chavez. The Bill would authorize the United States Department of Interior to “study significant lands in Chavez’s life.” Congresswoman Solis noted Mr. Chavez’s efforts in fighting for environmental justice to ensure that farm workers “attain social justice and freedom from exposure to poisonous chemicals, poor housing, discrimination, low wages, and limited education opportunities.”
- **“Groups Lay Plans to Shape Governor’s Fuels Carbon Standard,” Inside Cal/EPA (Jan. 12, 2007).** According to the article, California Governor Arnold Schwarzenegger’s proposed plan to cap carbon emissions from transportation fuels has industry and environmental stakeholders scrambling to try to influence how the Governor will implement the proposal. While industry would like voluntary measures implemented, environmentalists fear that the plan “may promote mobile-to-stationary source credit trading,” which they historically have opposed. One environmental justice activist noted the concern that Governor Schwarzenegger’s “low carbon fuel standard” (“LCSF”), which seeks to reduce transportation fuel carbon emissions by ten percent by 2020, could establish “a market mechanism that improperly allows sources of mobile carbon emissions, such as fuel producers, to potentially trade credits with stationary sources of emissions, such as utilities.” The article noted that Governor Schwarzenegger will issue an Executive Order that implements the LCSF in the near future.
- **“South Coast Plans Targeting Vehicles Draw Mixed Reaction,” Inside Cal/EPA (Jan. 12, 2007).** According to the article, the South Coast Air Quality Management District’s (“District”) plan to regulate mobile sources has drawn mixed reviews from environmentalists, who fear that redeploying existing staff to a new mobile source division “may divert already limited staffing from important existing district programs.” The District introduced its “Mobile Source Fair Share Initiative,” on January 5, 2007, because the “state and federal governments simply have not acted quickly enough to address the public health crisis precipitated largely by mobile source emissions.” One environmental justice activist agrees that the California Air Resources Board (“CARB”) and the United States Environmental Protection Agency (“EPA”) “are failing” in their responsibilities to regulate mobile sources and commended the District for pursuing a mobile source unit. However, the source asserted that “maintaining sufficient staffing levels for the new division and existing programs could be a priority,” due to concern that staff levels are not at prior levels. The article noted that industry would likely challenge the new mobile source units, because regulation of mobile sources has traditionally been under EPA’s and CARB’s purview.

- **“WRCB Budget May Ignite Battles Over Brownfields, Growth,” Inside Cal/EPA (Jan. 12, 2007).** According to the article, California Governor Arnold Schwarzenegger’s proposed budget for Fiscal Year 2007-2008 may lead to battles over how the Water Resources Control Board (“Board”) approaches brownfields cleanups. Governor Schwarzenegger allocated more than \$115 million for the Board in his January 10, 2007 proposal. Environmentalists have traditionally criticized the Board’s brownfields cleanups for failing to comply “with the same stringent public participation standards” as California’s Department of Toxic Substances Control (“DTSC”) employs, which are those of the federal National Contingency Plan. One environmental justice activist noted that the budget appears to put “developers’ profits ahead of public health,” because the allocation would allow the Board, not the DTSC, to handle more of the brownfields cleanups. In contrast, industry representatives, who have complained of the “emerging trend in which the [DTSC] . . . handles more cleanups,” praise the proposal, because they believe that the Board’s cleanups are “more efficient than DTSC’s.”
- **“Heath Care Center Wants Minority Voices: Influencing Policy to be UNM’s Goal,” Albuquerque Journal (N.M. Jan. 11, 2007).** According to the article, the University of New Mexico will establish the Center for Health Policy (“Center”) through an \$18.5 million grant from the Robert Wood Johnson Foundation. The purpose of the new Center is to train more minorities, such as Hispanics and Native Americans, to “have a voice in health care policy,” because minorities traditionally suffer disproportionately from various health problems and “often don’t have their perspectives heard when policymakers are looking for solutions.” For instance, one of the new temporary director’s of the Center believes that health issues, such as diabetes, which he characterized as an “environmental disease,” may be addressed if minorities “can draw from their experiences in search for [environmental] solutions.”
- **“Key House Panel Chair Vows to Pressure EPA on Environmental Justice,” Inside EPA (Jan. 10, 2007).** According to the article, Congressman Albert Wynn (D-MD), the Chairman of the House Energy and Commerce Committee’s subcommittee on environment and hazardous materials, plans to “highlight the effect of [President] Bush Administration’s environmental policies on minority populations, which could renew debate over [EPA’s] controversial 2005 decision to drop race as a factor in identifying communities disproportionately affected by pollution.” The article asserted that the selection of Congressman Wynn may “provide Democrats with a unique opportunity to use the environmental justice issue to challenge the Bush Administration on its handling of several EPA programs.” An unnamed environmentalist believes that “‘environmental justice can be an excellent strategy’ for drawing attention to the Bush Administration’s shortcomings on a broad range of environmental issues,” as the unnamed environmentalist believes

that the Bush Administration is “very vulnerable on environmental justice.” Included among the programs that Congressman Wynn may focus on is the Superfund program, which he believed is ““part of the environmental justice question,”” particularly in light of a June 2006 study that noted that ““people of color were disproportionately represented around a significant number of [Superfund] sites.””

- **“Rep. Wynn Selected as Chairman of Environmental, Hazardous Materials Subcommittee,” US Fed News (Jan. 9, 2007).** The article set forth a press release from Congressman Albert R. Wynn (D-MD) announcing his selection to the Chairman of the Environmental and Hazardous Materials Subcommittee for the 110th Congress. The Subcommittee has jurisdiction over EPA and focuses on issues such as safe drinking water, regulations of chemicals, and hazardous waste. In the press release, Congressman Wynn noted his concern about the “issue of environmental justice and the impact of hazardous waste disposal on low-income and minority communities.”
- **“Environment Concerns Halt P&Z Hearing,” Connecticut Post (Jan. 9, 2007).** According to the article, a proposed Planning and Zoning Commission (“Commission”) hearing on an application from HO-CAP Inc. “for approval of a coastal site plan to create an industrial storage yard” near a day-care center was postponed after a lawyer filed petitions seeking an environmental hearing. Although the lawyer filed the two petitions, he still wanted the Commission with the hearing “to allow residents to voice concerns about the air and water pollution they feared the storage facility might generate.” In addition, Fairfield County’s Environmental Justice Network was prepared to speak against the application. The hearing will be rescheduled for a later date.
- **“Kentucky Officials Plan Mine Cleanups with New Federal Funding,” Associated Press State and Local Wire (Jan. 8, 2007).** According to the article, Kentucky officials plan to use \$500 million in earmarked federal funding for “hundreds of cleanup projects at abandoned coal mine sites that are posing a threat to the public and the environment.” The State will receive the funding over the next 18 years, and it plans to address the roughly 150,000 acres in abandoned mine properties. Environmentalists, such as one environmental justice group, are pleased that the funding will be used to clean the mines, because “erosion [of the abandoned strip mines] and piles of refuse have resulted in severe water pollution of creeks and streams.”
- **“Soil District Plans Powerful Evolution,” Sun-Sentinel (FL Jan. 8, 2007).** The article discusses the evolution of the Broward Soil and Water Conservation District (“District”), which may become Broward County, Florida’s “environmental protector, complete with powers to levy new taxes,” based on a nonbinding referendum on November 7, 2006.

However, the Broward County Commissioner believes that the referendum passed on fraudulent means since it failed to mention an increase in taxes associated with referendum. Specifically, the referendum “asked voters to approve an agency to ‘provide urban environmental education programs, restore ecosystem and wildlife habitat, reduce flooding, and protect waterways and beaches.’ It did not say how these programs would be funded.” Accordingly, the Commissioner asserted that she would lobby to block the referendum. The District was created in the late 1970s. In the mid-1980s, a black activist became a supervisor and recruited minority supervisors to help “redirect the group to conduct environmental programs in the minority community. Using [federal and state] grant money, the District today plants trees in inner city parks and holds workshops to teach minorities how to write successful environmental grants.” The District runs its programs from state and federal grants. However, the Broward County Commissioner does not support grants to the District, as she asserted her view that the District represents competition with the County for the work that the County is “well-equipped to do.” Accordingly, she articulated that “[i]t might be time to talk about abolishing this district.”

- **“Future Freeway,” Press Enterprise (CA Jan. 7, 2007) at B1.** According to the article, the completion of construction of Interstate 210 later this year in San Bernardino California has been the topic of outreach workshops over the two past months. The workshops focused on the views of those who would be affected by the new freeway. IBI Group conducted the workshops based on a \$253,000 environmental justice grant from Caltrans, which recognized that “freeway projects can harm communities as well as benefit them. And when the freeways go through predominantly minority communities, such as [this], local residents should be included in the planning process.” At the end of this month, an “I-210 Corridor Enhancement Plan” should be released, which will seek to improve the quality of life of those that the freeway will affect.
- **“Groups to Study Freight Pollution,” Inside Bay Area (CA Jan. 7, 2007).** According to the article, the Davis West Neighborhood Association, a West San Leandro, California environmental justice group, will study “pollution in [West San Leandro, which is surrounded by businesses related to the trucking industry], looking to raise awareness about the growing freight industry and its effects on residents’ health.” In particular, the group would like to focus on pollution issues related to the City’s health problems, such as cancer and asthma, and determine who is responsible for the environmental issues in the City.
- **“Tourists’ Survey City’s Brownfields,” Connecticut Post (Jan. 7, 2007).** According to the article, a bus tour was conducted on January 6, 2007 for the Fairfield County Environmental Justice Network (“Network”) “that focused on [Bridgeport, Connecticut’s] polluting facilities and

contaminated sites.” The tour, which intended to select two or three project areas for the Network to clean in 2007, sought to “bring attention” the environmental hazards in Bridgeport that impact the residents’ health. According to one observer of the tour, the residents in the area were low-income residents, and the proximity to facilities, such as RESCO, a trash burning energy plant, represented another instance of “environmental racism in Bridgeport.” According to that observer, Bridgeport’s dirty air has caused increased cases of emphysema and asthma.

- **“Revised South Coast Plan for Power Plant ERCs Draws New Fire,” Inside Cal/EPA (Jan. 5, 2007).** According to the article, the South Coast Air Quality Management District (“District”) issued a revised plan that seeks “to prevent the expansion or construction of power plants in environmental justice (“EJ”) areas by limiting access to pollution credits.” The District’s plan has drawn criticism from industry and environmental groups, however. EJ activists do not agree with the District’s assertion that the plan addresses EJ concerns, because the activists believe that “the most clearly identified EJ areas are not protected by [the] plan.” In contrast, industry groups argue that the plan’s prohibition on “accessing credits in certain zones will make it difficult to build plants where they need to be [to] provide power to the region.” The article noted that EJ activists were skeptical of industry’s assertions.
- **“Missing the Forest and the Trees,” New York Sun (Jan. 5, 2007) at 7.** The editorial takes issue with the recent grant of \$500,000 that Majora Carter received from the John D. and Catherine T. MacArthur Foundation. The editorial asserts that Ms. Carter, who runs the Sustainable South Bronx organization, “paints a dismal picture of the Bronx,” which is “far worse” than reality. The editorial questioned Ms. Carter’s perception of the Bronx and noted that she was “so far out on the fringe of naysayers who have fought job creation [in the Bronx such] that she opposed the recent deal to build the new Yankee Stadium, one of the few bright spots in the otherwise bleak Bronx economic picture.” In addition, the editorial noted that while Sustainable South Bronx “defines itself as pursuing ‘environmental justice,’” that term has “become meaningless in the Bronx of today. There is no longer a ‘north’ or ‘south’ Bronx as a demarcation indicating poverty or race.”
- **“Debate Reopens on Site of Plant; Boston Proposal Gets New Hearings,” Boston Globe (Jan. 4, 2007) at 1.** According to the article, the Boston Water and Sewer Commission (“Commission”) has decided to refile its application to move a sewer-debris treatment facility from Dorchester to Charlestown, Massachusetts. The Commission’s decision to refile will allow officials from Everett and Somerville to note their opposition to the project. Included among their points of contention is the argument that “because the facility is proposed for an environmental justice area – a federal designation for low-income or minority

communities that bear a disproportionate level of hazards from commercial facilities – the state should have sought further public participation.”

- **“New Haven Youngsters Recycle Oil Drums into Trash Receptacles,” US States News (Jan. 4, 2007).** The article set forth a press release from the Connecticut Department of Environmental Protection (“DEP”) which announced that DEP “will unveil three trash receptacles created from recycled 55-gallon oil drums . . . [on] January 5, 2007.” The new colorful receptacles were the idea of DEP’s Environmental Justice Program, which supports all recycling and reuse efforts. DEP particularly highlighted the collaboration between recycling and “children using their artistic creativity” in discussing this initiative.

2. **Recent Litigation.**

- **In re: Marcal Paper Mills, Inc., Petition No.: II-2006-01, 2006 EPA CAA Title V LEXIS 8 (Nov. 30, 2006).** In this decision, EPA denied in part and granted in part a petition that it received from the Rutgers Environmental Law Clinic (“Clinic”) requesting that “EPA object to the issuance of a state operating permit, pursuant to Title V of the Clean Air Act (“CAA”) . . . [issued to] Marcal Paper Mills, Inc. [(“Marcal”)], located in Elmwood Park, New Jersey” that the New Jersey Department of Environmental Protection (“DEP”) issued on December 30, 2005. Marcal, which is classified as a major facility due to its potential to emit, among other things, 66.5 tons per year of volatile organic compounds (“VOC”), processes recycled paper waste to produce toilet paper, paper towels, and napkins. Included among the objections to the permit was the fact that “DEP did not adequately address the environmental justice issue raised . . . as is required by state and federal environmental justice orders.” Specifically, the petition asserted that Marcal was located in an area whose population was low-income and minority with a disproportionately high percentage of residents with asthma. The petition requested that EPA “object to the Marcal permit and to require DEP to respond to the environmental justice orders currently in place by imposing stricter conditions in the Title V permit to reduce the health and environmental impacts associated with this facilities. The [petition] also allege[s] the permit allows Marcal to more than double its emissions compared to those of 1995. [In addition, the petition] find[s] unacceptable DEP’s plan to wait until 2008 to implement regulation of PM 2.5 emissions.” EPA did not agree with the petition with regard to the environmental justice argument. It acknowledged that environmental justice issues can be considered and raised in various actions carried out under the CAA, such as when EPA, or a delegated state, issues a NSR permit. However, it found that unlike NSR permits, “Title V generally does not impose new, substantive emission control requirements, but rather requires that all underlying applicable requirements be included in the operating permit.

Title V also includes important public participation provisions as well as monitoring, compliance certification, and reporting obligations intended to insure compliance with the applicable requirements. In this particular case, the Petitioners' environmental justice concerns do not demonstrate that Marcal's Title V permit fails to properly identify and comply with the applicable requirements of the CAA. Thus, the petition to object to the permit on this particular issue must be denied."

3. **Regulatory/Legislative/Policy.**

The following items were most noteworthy:

A. **Federal Congressional Bills and Matters.**

- No noteworthy "*Federal Congressional Bills and Matters*" were identified for this time period.
- No noteworthy "*Miscellaneous House and Senate Congressional Record Mentions of Environmental Justice*" were identified for this time period.
- **Federal Register Notices.**

- **EPA, Hazardous Waste Management System: Identification and Listing of Hazardous Waste; Amendment to Hazardous Waste Code F019, 72 Fed. Reg. 2219 (Jan. 18, 2007).** EPA announced its intent to amend the "list of hazardous wastes from non-specific sources (called F-wastes) under [40 CFR 261.31](#) by modifying the scope of the EPA Hazardous Waste No. F019 (Wastewater treatment sludges from the chemical conversion coating of aluminum except from zirconium phosphating in aluminum can washing when such phosphating is an exclusive conversion coating process)." EPA would amend the F019 listing to exempt wastewater treatment sludges from zinc phosphating, when such phosphating is part of the motor vehicle manufacturing process. EPA proposed two options that would require waste disposal in a landfill unit that met certain liner design criteria. The proposed modifications to the F019 listing would not affect any other wastewater treatment sludges. With regard to Executive Order 12898, EPA conducted a risk assessment that failed to identify risks from the management of the zinc phosphating sludge generated by the motor vehicle manufacturing industry provided that the waste disposal occurred in a landfill that met the proposed design criteria. Therefore, EPA believed that common waste management practices for the wastewater treatment sludge would not adversely affect any populations in proximity to the landfills.
- **EPA, Antimycin A Risk Assessments; Notice of Availability, and Risk Reduction Options, 72 Fed. Reg. 1990 (Jan. 27, 2007).**

EPA announced the availability of its risk assessments and related documents for the pesticide antimycin A. In soliciting public comment on these documents by March 19, 2007, EPA requested that the public suggest risk management ideas or proposals to address the identified risks. EPA is developing a Reregistration Eligibility Decision (“RED”) for the antimycin A through a modified four-phase public participation process to ensure that all pesticides meet current health and safety standards. To help address potential environmental justice issues, EPA seeks, among other things, “information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical, unusually high exposure to antimycin A, compared to the general population.”

— **EPA, Environmental Impact Statements and Regulations; Availability of EPA Comments, 72 Fed. Reg. 1512 (Jan. 12, 2007).** EPA announced the availability of its comments pursuant to the Environmental Review Process (“ERP”), as required by Section 309 of the CAA and Section 102(2)(c) of the National Environmental Policy Act (“NEPA”). With regard to the draft Environmental Impact Statements, EPA raised concerns with the “Chukchi Sea Planning Area Oil and Gas Lease Sale 193 and Seismic Surveying Activities,” due to environmental justice issues related to “adverse effects from multiple, overlapping and fast-tracked development planning processes on local residents and tribes.” EPA requested “additional information on human health impacts due to increased oil and gas development,” as well as “further evaluation of oil spill risk to biological and subsistence resources.”

— **DOT, Environmental Impact Statement; Ada County, ID, 72 Fed. Reg. 1363 (Jan. 11, 2007).** The United States Department of Transportation’s Federal Highway Administration announced its intent to prepare an Environmental Impact Statement (“EIS”) for “the proposed new construction of approximately 7 miles of SH 16 between SH 44 (State Street) and I-84 in the general vicinity of McDermott Road in Ada County, Idaho. The corridor study will evaluate the location and design for future construction of this highway segment.” Comments on the scope of the EIS, which will consider various alternatives and study the impacts assessment for such things as environmental justice, are due by January 31, 2007.

— **USDA, Norborne Baseload Plant, 72 Fed. Reg. 1315 (Jan. 11, 2007).** The United States Department of Agriculture’s (“USDA”) Rural Utilities Service announced its issuance of a Draft Environmental Impact Statement (“DEIS”) for the Norborne Baseload Plant (“Plant”). The DEIS evaluates “the potential environmental impacts of and alternatives to the Associated Electric Cooperative, Inc.’s (“AECI”) application for a USDA/RD

loan to construct the proposed 660 megawatt (“MW”) coal-fired power plant in Carroll County, Missouri, near the town of Norborne. AECI is proposing to use a coal combustion technology known as supercritical pulverized coal, along with other proposed pollution controls collectively known as Best Available Control Technology (“BACT”).” Written comments are due 45 days after publication of the *Federal Register* notice. The DEIS considered various things, such as the potentially significant impacts on “environmental justice (Native Americans).”

- **EPA, Unregulated Contaminant Monitoring Regulation (“UCMR”) for Public Water Systems Revisions, 72 Fed. Reg. 368 (Jan. 4, 2007).** EPA announced the publication of a list of unregulated contaminants that should be monitored, as well as the criteria for such monitoring, pursuant to requirements of the Safe Drinking Water Act (“SDWA”). The SDWA requires EPA to publish the list and criteria every five years, and EPA published the first set of contaminants in 1999. This final rule, which takes effect on February 5, 2007, “describes the design for the second Unregulated Contaminant Monitoring Regulation (“UCMR”) cycle (*i.e.*, UCMR 2) of 2007-2011. EPA is requiring monitoring of 25 chemicals using 5 different analytical methods. UCMR 2 monitoring will occur during 2008-2010. Implementation of this final rule will benefit the environment by providing EPA and other interested parties with scientifically valid data on the occurrence of these contaminants in drinking water, thereby permitting the assessment of the population potentially being exposed and the levels of that exposure. These data are the primary source of occurrence and exposure data for the Agency to determine whether to regulate these contaminants.” With regard to environmental justice, EPA noted that “UCMR furthers the protection of public health for all citizens, including minority and low-income populations using public water supplies. Using a statistically-derived set of systems for the nationally representative sample that is population-weighted within each system size category in each State, the final rule ensures that no group within the population is under-represented.”

- **DOE, Notice of Intent to Prepare a Programmatic Environmental Impact Statement for the Global Nuclear Energy Partnership, 72 Fed. Reg. 331 (Jan. 4, 2007).** The United States Department of Energy (“DOE”) announced its intent to prepare a Programmatic Environmental Impact Statement for the Global Nuclear Energy Partnership initiative (“GNEP PEIS”), which will “analyze the potential environmental impacts of [the following] programmatic and project-specific proposals, as well as reasonable alternatives. The GNEP PEIS also will evaluate at a programmatic level the potential environmental impacts associated

with the international aspects of GNEP, including alternatives.” Domestically, GNEP involves a programmatic proposal and project-specific proposals. The programmatic proposal seeks to recycle spent fuel and destroy the long-lived radioactive components of that spent fuel. To accomplish this, GNEP includes project-specific proposals to construct and operate three facilities. The GNEP PEIS will consider thirteen sites as possible locations for one or more of these facilities; in addition, it will consider alternative technologies to be used in these facilities. Comments will be taken during the public scoping period that ends on April 4, 2007. Included among the potential environmental issues for analysis is environmental justice.

- **DOD, Preparation of the Supplemental Environmental Impact Statement for the Permanent Stationing of Stryker Brigade Combat Team Number 5, 72 Fed. Reg. 330 (Jan. 4, 2007).** The United States Department of the Army (“Army”) of the United States Department of Defense (“DOD”) announced that it will prepare “Supplement to the 2004 Final Environmental Impact Statement for Transformation of the 2nd Brigade, 25th Infantry Division (“Light”) (“2nd Bde, 25th ID(L)”) to a Stryker Brigade Combat Team (“SBCT”).” The Army has directed the 2nd Bde, 25th ID(L) to transform into the 5th SBCT. The Supplemental Environmental Impact Statement (“SEIS”) will assess the potential environmental impacts associated with the proposed permanent home stationing of the 5th SBCT at its current location in Hawaii and at other reasonable locations outside of Hawaii. The no action alternative is to return the 2-25th Bde, 25th ID (L) to its original structure as it existed prior to its transformation. The no-action alternative is no longer feasible, however, as the Army Campaign Plan (“ACP”) has directed all previously existing Light Brigades to transform to the standard expeditionary configuration of the Infantry Brigade Combat Team (“IBCT”). The SEIS, which will analyze the proposed action’s impacts upon the natural, cultural, and man-made environments at the alternative permanent home-stationing sites, will analyze numerous environmental issues, including environmental justice.

B. State Congressional Bills and Matters.

- **Arizona, House Bill 2279, introduced on January 11, 2007 by Congresswoman Kyrsten Sinema (D-District 15). Status: Introduced.** The Bill establishes a Council of Environmental Health and Environmental Justice (“Council”) “to ensure equal environmental protection for all residents of [Arizona] regardless of race, ethnicity, or socioeconomic status.” The Director of Arizona’s Department of Health Services will chair the Council and appoint its members from groups that

have an interest and expertise in environmental issues and permitting regulations. The Council will establish various standards related to air, water, and hazardous waste permits that the Department of Environmental Quality must follow. For instance, when a permit is issued that authorizes the release of a pollutant from a facility or source, the Department of Environmental Quality must, among other things, identify the exposed populations, and “include in any required public notice of the proposed permit data on the race, color, national origin, and income within a three-mile radius of the source or facility.”

- **Minnesota, House Bill 205, introduced on January 18, 2007 by Congressman Joe Mullery (D-District 58A). Status: *Introduced.* Author Added on January 22, 2007.** The Bill, the “Environmental Justice Act,” set forth environmental justice implementation policies. It defined the term environmental justice and called for the adoption of policies that would “provided meaningful opportunities for involvement to all people, regardless of race, color, . . . , income, or education level.” The Bill created an Environmental Justice Task Force to make recommendations regarding actions to be taken to address environmental justice issues and concerns. In addition, the Bill specified that the Task Force shall develop community action plans. Finally, the Bill created an Environmental Justice Advisory Council to advise on environmental justice issues.
- **Mississippi, Senate Bill 2499, introduced on January 10, 2007 by Senator Deborah Dawkins (D-District 48). Status: *Referred to Senate Environment Protection, Conservation, and Water Resource Committee on January 10, 2007.*** The Bill, which will be known as the “Mississippi Environmental Equity Act,” seeks to “create an environmental equity program to be administered by the Department of Environmental Quality [(“Department”)] to ensure that hazardous waste facilities are not disproportionately concentrated in minority or low-income communities.” The Bill wants to ensure equitable processes and outcomes in preventing and reducing human exposure to potentially harmful substances, to enhance the Department’s authority to make siting recommendations of facilities that manufacture, store, or release potentially hazardous substances. The Bill creates an Environmental Equity Task Force of fifteen members. In addition, the Bill specifies that no permit shall be issued that conflicts with the provisions of the Mississippi Environmental Equity Act.
- **New York, Assembly Bill 900, introduced on January 3, 2007 by Assemblyman Steve Englebright (D-District 4). Status: *Referred to Assembly Committee on Children and Families on January 3, 2007.*** The Bill amends the social services law with regard to child day care and also amends the environmental conservation law with regard to integrated pest management procedures in child day care settings. Due to the

legislature's finding that "young children, including those in day care and head start centers, are at disproportionate risk to environmental hazards, such as pesticide exposure," the Bill requires the adoption of integrated pest management techniques, as well as environmental health and safety measures to limit exposure to toxic substances at day care and child care facilities. Such techniques will be subject to public review. The legislature believes that such special protective measures are necessary because children are "exposed to and absorb more toxic substances per pound of body weight than adults," due to "their smaller body size, developing organ systems, and predilection for hand-to-mouth behaviors."

- **New York, Assembly Bill 1098, introduced on January 3, 2007 by Assemblyman Richard L. Brodsky (D-District 92). Status: Referred to Assembly Committee on Environmental Conservation on January 3, 2007.** The Bill found that an inequitable pattern exists in siting environmental facilities in minority and low-income communities, which were disproportionately affected by such facilities. In addition, the Bill reaffirms its commitment to providing equal justice for everyone. Accordingly, the Bill makes various provisions regulating the location of environmental facilities to insure equity of treatment for minority communities or economically distressed areas. In addition, it requires environmental impact statements to state whether the siting of a facility will cause or increase a disproportionate burden on such areas.
- **New York, Assembly Bill 1435, introduced on January 9, 2007 by Assemblyman Adam Bradley (D-District 89). Status: Referred to Assembly Committee on Environmental Conservation on January 9, 2007.** The Bill, which is known as the Environmental Access to Justice Act, amends the environmental conservation law and prevents individuals from the denial of standing in private actions that allege violations of the environmental quality review provisions of the environmental conservation law solely based on the fact that "the injury alleged by such individual does not differ in kind or degree from the injury that would be suffered from by the public at large." The Bill will take effect immediately.
- **New York, Assembly Bill 2003, introduced on January 11, 2007 by Congressman Ruben Diaz, Jr. (D-District 85). Status: Referred to Assembly Committee on Environmental Conservation on January 11, 2007.** The Bill amended the environmental conservation law by establishing a permanent environmental justice advisory group and an environmental justice advisory council. With regard to the group, which will consist of fifteen members, the Bill specified that it will ensure that "no group of people, including a racial, ethnic, or socioeconomic group, bears a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the

execution of federal, state, local, and tribal programs and policies.” In addition, the group will adopt a model environmental justice policy that applies to state agencies. The group will also monitor compliance with the environmental justice policies of state agencies and provide appropriate recommendations to improve such policies.

- **Oregon, Senate Bill 420, introduced on January 15, 2007 by Senator Avel Gordly (I-District 23). Status: Referred to Senate Committee on Environment and Natural Resources on January 17, 2006.** The Bill creates an Environmental Justice Task Force and specifies its duties and responsibilities. The Task Force will consist of twelve members that the Governor will appoint. It will advise the Governor on environmental justice issues, as well as the natural resource agencies. It will identify minority and low-income communities that “may be affected by environmental justice decisions made by the agencies.” The Task Force will meet with environmental justice communities and define the State’s environmental justice issues. The Task Force will try to encourage public participation to raise environmental justice issues as well.
- **South Carolina, Senate Bill 171, introduced on January 9, 2007 by Senator Phil P. Leventis (D-District 35). Status: Referred to Senate Committee on Agriculture and Natural Resources on January 9, 2007.** The Bill requires the Department of Health and Environmental Control (“Department”) “to develop and implement a long range strategy for preserving and protecting the environment and public health, to require the Department to certify that every major environmental permitting action is consistent with this strategy and other state and local plans, and to evaluate the impact of the action on the environment and on low-income and minority persons.” Specifically, for every major environmental permitting action, the Bill articulates that the Department may, among other things, “consider whether the permitted activity of project would disproportionately impact low-income and minority persons.”
- **Texas, House Bill 601, introduced on January 17, 2007 by Congressman Senfronia Thompson (D-141). Status: Introduced.** The Bill pertains to the requirement that state agencies identify and address adverse human health and environmental effects on minority populations and low-income populations. It establishes a Interagency Working Group on Environmental Justice, which will, among other things: provide guidance on criteria for identifying disproportionately high and adverse human health or environmental effects on areas with minority and low-income populations; coordinate with the state agencies in the development of environmental justice strategies; examine existing environmental justice information; and develop interagency model projects on environmental justice. The Bill also specified the duties for state agencies as well as methods to develop agency strategies on environmental justice.

- **Washington, Senate Bill 5279, introduced on January 15, 2007 by Senator Rosa Franklin (D-District 29). Status: Referred to Senate Committee on Health and Long Term Care on January 15, 2007.** The Bill creates the Children’s Environmental Health and Protection Advisory Council. The council was created based on the finding that “higher rates of poverty place children of ethnic and minority communities at disproportionate risk for environmental exposures due to inadequate housing, poor nutrition, and limited access to health care.” The council will address these issues and provide a report annually with recommendations to reduce children’s exposure to environmental hazards.
- **State Regulatory Alerts.**
 - **New York, 2007 Reg. LEXIS 1033 (Jan. 3, 2007).** New York’s Public Service Commission (“Commission”) announced that it was clarifying and streamlining rules so that “applications for certificates to construct and operate electric transmission facilities in national interest electric transmission corridors may be acted upon within one year of their filing.” Of particular note was that the notice addressed concerns of two assembly members who requested that the Commission “require that applications contain information (including demographic data on communities in the path of proposed transmission lines and any identified alternative routs) sufficient for [it] to determine whether any issue of environmental justice are involved.” Although it did not add any environmental justice language, it did note that the Commission can make findings on whether the facility “represents the minimum adverse environmental impact.” In addition, the Commission asserted that it would require additional information if it deemed necessary.
 - **Pennsylvania, 36 Pa. Bull. 8001 (Dec. 30, 2006).** Pennsylvania’s Department of Environmental Protection (“DEP”) set forth its list of 2007 meetings of advisory and other boards and committees. Included among the scheduled meetings was the schedule for the Environmental Justice Advisory Board, which is scheduled to hold meetings on February 13, 2007, June 5, 2007, August 14, 2007, and November 13, 2007. The meetings are scheduled to begin at 9:15 a.m. in Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. For more information, please contact Doan D. Barefield, Office of Environmental Advocate, Rachel Carson State Office Building, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 783-5630, dbarefield@state.pa.us.